

REMARKS

Claims 1, 2, 4, 8, 13, 14, 21, 27, 32, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al., US 2005/0035354 (hereinafter "Lin"). Applicants respectfully traverse the rejection. The Examiner states "the '354 reference discloses a light emitting device comprising: . . . a photonic crystal structure (generally indicated at holes 533, paragraph [0037]) formed in at least a portion of the n-type region (516, paragraphs [0037] and [0040], and note that the teaching is not restricted to a specific polarity, therefore region 516 can be n-type or p-type as is known in the art); and a reflector ('DBR' 512, for 'Distributed Bragg Reflector', paragraphs [0005] and [0037]) disposed on at least a portion of a surface of the p-type region (513) opposite the active region." Claim 1 recites "a metal reflector." Since the structure in Lin cited by the Examiner is a distributed Bragg reflector, not a metal reflector, Lin does not teach every element of claim 1. Claims 2, 4, 8, 13, 14, 21, 27, 32, and 33 depend from claim 1 and are therefore allowable over Lin for at least the same reason as claim 1.

Claims 3, 5-7, 9-12, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin. Claims 3, 5-7, 9-12, and 15-20 depend from claim 1. The Examiner's analysis of these claims adds nothing to the deficiencies of Lin with respect to claim 1. Claims 3, 5-7, 9-12, and 15-20 are thus allowable over Lin for at least the same reason that claim 1 is allowable over Lin.

Claims 1, 2, 4, 8, 13, 14, 17-21, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Erchak et al., US 6,831,302 (hereinafter "Erchak"). Claims 3, 5-7, 9-12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erchak. Applicants intend to submit an appropriate declaration to establish invention of the subject matter of any rejected claim prior to the effective date of Erchak, once the other prior art rejections made by the Examiner are overcome.

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Claims 1, 2, 4, 13, 14, 21, 22, 27, 32, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al., US 2005/0173717 (hereinafter "Lee"). Applicants respectfully traverse the rejection. The Examiner states "the '717 reference discloses a light emitting device comprising: . . . a photonic crystal structure (generally indicated at holes 201, paragraph [0020], particularly the section bridging pages 2 and 3) formed in at least a portion of the n-type region (124, paragraph [0019], and note that the teaching is not restricted to a specific polarity, therefore region 124 can be n-type or p-type as is known in the art); and a reflector ('DBR' 133, for 'Distributed Bragg Reflector', paragraph [0019]) disposed on at least a portion of a surface of the p-type region (131/132) opposite the active region." Claim 1 recites "a metal reflector." Since the structure in Lee cited by the Examiner is a distributed Bragg reflector, not a metal reflector, Lee does not teach every element of claim 1. Claims 2, 4, 13, 14, 21, 22, 27, 32, and 33 depend from claim 1 and are therefore allowable over Lee for at least the same reason as claim 1.

Claims 3, 5-7, 10-12, 15-20, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee. Claims 3, 5-7, 10-12, 15-20, and 23-25 depend from claim 1. The Examiner's analysis of these claims adds nothing to the deficiencies of Lee with respect to claim 1. Claims 3, 5-7, 10-12, 15-20, and 23-25 are thus allowable over Lee for at least the same reason that claim 1 is allowable over Lee.

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In view of the above arguments, Applicants respectfully request allowance of all pending claims. Should the Examiner have any questions, the Examiner is invited to call the undersigned at (408) 382-0480.

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Signature Date

Respectfully submitted,

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